

## **REMARKS**

Applicant has carefully reviewed the Office Action dated September 29, 2006. Applicant has amended Claims 1 and 12 to more clearly point out the present inventive concept. Reconsideration and favorable action is respectfully requested.

Claims 1-22 stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite. The Examiner has pointed out several portions of the claim that the Examiner considers to be confusing. Applicant has amended the claims to clarify some of these issues.

With respect to the Examiner's indication of the term "transferring ownership," Applicant believes that this is clear. However, to further clarify this, Applicant has amended this to transfer ownership from an entity other than the user to the user. Further, the preamble has been amended to change the language "acquire" to "acquire and own." Applicant believes that the term "ownership" clearly sets forth that a user has legal title and that a unit or item of purchase belongs to that user. Clearly, in any purchase transaction, when one person owns a piece of property and another person purchases that piece of property, ownership transfers. Otherwise, this would be some type of license wherein only equitable title rather than legal title transfer. Applicant can provide legal definitions of ownership if necessary in a later response. However, Applicant believes that the language as set forth is clear to one of skill in the art. In view of these amendments, Applicant respectfully requests withdrawal of the 35 U.S.C. § 112 rejection with respect to claims 1-22.

Claims 1-22 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over *Baranowski* (U.S. Patent No. 6,813,608). This rejection is respectfully traversed.

The *Baranowski* reference is a reference that had previously not been presented to Applicant in conjunction with this application. This particular patent has been publicly available since November 2, 2004 and the previous Office Action, with a mailing date of December 7, 2005, did not incorporate such. However, the Examiner has made this action Final, stating that the amendment in the previous response necessitated a new ground of rejection. Applicant

believes that this is improper. The amendments to the claims with the previous Response did nothing more than to clarify the language of the claim. These are easily anticipated amendments. For example, there was a clarification of the step of associating with the step of extracting wherein the term “unique identification information,” which Applicant believes was clearly set forth in the claims prior to the amendment, was clarified in the preamble as the terminology “the user having unique identification information associated therewith.” Clearly, this was not an added limitation to the claims. As such, the limitations that were set forth in the claim prior to the Office Action dated December 7, 2005 were the same limitations that are presented in the present case. Therefore, the *Baranowski* reference could have been utilized by the Examiner in the Examiner’s rejections of December 7, 2005 and, therefore, Applicant believes that the finality of the Office Action was improper.

The Examiner has set forth the following rejection in a single paragraph:

*Baranowski* disclosed, e.g. Figs. 1-6, a method/system for initiating and completing a commercial transaction, e.g. 120, that transfers ownership. The user has a unique identification, e.g. col. 6, lines 48-67, a bar code, e.g. cols. 16-17, that extract information, and a retail processing system, e.g. 125. *Baranowski* does not specifically disclose a temporary buffer. Official notice is taken that temporary buffers associated with machine resolvable code has been common knowledge in the art. To have provided such with the method/system of *Baranowski* would have been obvious to one of ordinary skill in the art. The motivation for using such would have been implementing common knowledge technology used for its intended purpose.

The Examiner has indicated that the system of *Baranowski* with respect to all of the figures discloses a method/system for initiating and completing a commercial transaction that transfers ownership. The Examiner refers to element (120) specifically. The system (120) in the specification sets forth in column 5, beginning at line 62 that “the controller (120) runs software necessary to provide all the services available to the customer using the portable device (100).” The Examiner further sets forth that the user has a unique identification, citing column 6, lines 48-67 and column 16-17 and referring to a bar code as a unique identification, and also refers to

a retail processing system (125). The element (125) refers to point-of-sale equipment. The portion of the specification at column 6, lines 47-67 is set forth as follows:

Rather than provide an entirely new portable device (100), if a visitor to the wide-area facility has his or her own PDA, it may be possible and preferable to adapt the customer's PDA to function as the portable device (100) of the present invention. For example, a module (not shown) can be provided for connection to a customer's own PDA's. The module may provide all the software, firmware and hardware, including communications hardware, necessary to allow the customer's conventional PDA to function as the portable device (100) of the present invention.

Alternatively, if the customer's own PDA happens to contain all the necessary hardware to function as the portable device (100), under the principles of the present invention, software can be downloaded to the customer's PDA, at the wide-area facility or over a web host (130) on the Internet, so that the customer's PDA can become the portable device (100). The customer may be charged for renting or purchasing a portable device (100) or for obtaining a module or software upgrade to adapt an existing PDA for use as the portable device (100).

Applicant does not believe that this portion of the specification refers to any identification of the user. All this does is set forth that the portable device could be the owner's personal PDA. All this requires is software to be downloaded to the customer's PDA. There is no indication in this particular portion of the specification that refers to any information regarding identification of the user.

The Examiner indicates that the specification from column 16-17 refers to the use of a bar code. The first mention of a bar code is on column 16, line 2, which refers to the identification (608). This identification is set forth in the specification in the paragraph at column 16, beginning at line 47 and extending to line 62, which is set forth as follows:

Alternatively, a physical form of identification (608) held may be held by each member of a group and shown to gain preferential admission based on an existing reservation. This physical form of identification (608) can take several equivalent

forms under the principles of the present invention. For example, the identification device (608) might be a card incorporating a Subscriber Identity Module (SIM), i.e., a smart card that contains data identifying the user. This card is then interfaced with a card reader (607) at the preferential entrance (602) to the attraction (600) to operate, for example, a turnstile (610) admitting each individual member of the group to the attraction (600) at the time of that group's reservation. The SIM could alternatively be incorporated into a wristband, pendant or other device easily carried by the group members visiting the wide-area facility.

In general, this identification is an identification that is provided in accordance with a user going to some type of attraction such as an amusement park. The user is provided this code for the purpose of identifying the user for entrance and the such. However, this particular physical code is not used in conjunction with any type of purchasing operation from a reading of the specification; rather, all this is used for is to identify a user to allow them to get through a turnstile. In fact, it indicates, in column 17, beginning at line 18, that the user also has a portable device (100). The only purpose for this identification, i.e., the bar code, is in the situation wherein a number of people in a group may want to share a portable device. The specification at column 16, beginning at line 35 and extending to line 46 sets forth the purpose of requiring some type of ID for each member of the group, this being the physical ID. This portion of the specification is set forth as follows:

Consequently, under the principles of the present invention, members of a group may share a portable device (100). However, some form of identification is provided to each of the members of the group, for which appropriate fees may be charged, that allow each member of the group to have preferential access to an attraction (600) based on the schedule of reservations associated with the group's portable device (100). Extending the examples given above, each member of the group may have a different identification or code that must be provided at the preferential entrance (602) to the attraction (600) so that the number of people admitted is consistent with the reservation made and the fees paid.

As such, Applicant does not see how this identification information is utilized in a manner consistent with that associated with the claim, as the claim requires that, after extracting of the MRC, it is transmitted to the retail processing system with the unique identification information. There is no such association between this bar code and the retail processing system.

The Examiner indicated that one aspect of *Baranowski* that is missing is that there is no disclosure of a temporary buffer. The Examiner has indicated that Official Notice is taken that the temporary buffers associated with machine resolvable code are, known in the art. However, even though a temporary buffer may be associated with such and that encoded information can be stored therein, there is no indication that the use of storage of an MRC in a temporary buffer and later transmission thereof in conjunction with the unique identification information is not set forth. Further, the Examiner indicates that this is the only difference between *Baranowski* and the claim language.

Although the Examiner has not specifically pointed to the portions of *Baranowski* that relate to the elements of the claim in such a manner that a rejection is supported, Applicant has reviewed *Baranowski* with respect to the claim. There are a number of portions in *Baranowski* which discuss a customer purchasing product with the use of a portable device (100). In the Summary of the Invention section, at column 3, beginning at line 14, it sets forth that the portable device is used “to support customer purchasing with the wide-area facility.” Further, at column 3, line 18, it sets forth that a charge can be authorized for a specified item with the “user input device” of the portable device. This input device is set forth in column 3, lines 15-16 as being “connected to the controller that is executing purchasing software.” In column 8, beginning at line 41, it is stated that “advertisements provide an opportunity for the customer to purchase the advertised product by simply pressing a button. The product can either be picked up at a location within the wide-area facility, or the product could be sent to the customer’s address on file or the customer’s accommodations within the wide-area facility.” This language indicates that there is some action required by the user, i.e., press a button, to facilitate a purchase. The purchasing operation, in one aspect thereof, is set forth in the paragraph beginning at column 8, line 47, which is set forth as follows:

Purchasing software run by both the portable device (100) and the controller (120) is used to make transactions simpler by eliminating the exchange of cash or a credit or debit card. The transaction can be entirely electronic. The software in the portable device interfaces with the point-of-sale system through the controller. Through the controller's interface, the total purchase amount is transmitted, and the portable device (100) requests the transaction to be processed after final customer approval. Once approved, the controller (120) looks to see if a credit or debit account has been set up locally. If there is no local account, the controller (120) can connect to the place that holds the account, whether it is a bank for a debit account, or a creditor for a credit account. Once the controller gets approval of the transaction, the sale will be completed. The controller (120) connects to nationwide credit card approval sites (135) over a wired connection when a credit purchase approval is required.

It can be seen that the entirely electronic transaction is facilitated by the controller transmitting a total purchase amount to a portable device followed by a request by the portable device to process a transaction "after final customer approval." The approval of the transaction, i.e., the transfer of funds, will then result in a completion of the sale. However, there is no input of information from an MRC associated with the product, which encoded information contained therein is then transmitted in association with unique information of the user in order to complete the transaction. In fact, the information regarding the user's identity is previously known by the main system, as the main system can monitor the movements of the PDA, in one embodiment and, thus, there is no requirement for the information regarding the user to be transferred in conjunction with the transfer operation. Thus, Applicant would respectfully request the Examiner explain how this purchase operation can anticipate or obviate the language of the present claim.

In another aspect of the *Baranowski* specification, purchasing is described in column 12, beginning at line 42, wherein certain messaging features of the system allow a customer to search a mall or store database for a particular item and then receive directions on how to find and purchase the item. The customer then apparently selects certain purchases and then transfers account information to the intelligent point-of-sale equipment to complete the transaction. Again, there is no indication that an MRC is extracted and then both the extracted MRC information and the unique identification information is sent to the retail processing system for the purpose of completing the sale and transferring ownership of the article of commerce to the user.

Based upon the references and the understanding that the Applicant has of the Examiner's position, Applicant does not see how the Examiner is applying this reference to the invention as defined by the claims. There is no teaching or even suggestion that there be any input of information regarding a product to the portable device other than providing advertising information for a user to select. Apparently this press of a button is in response to an advertisement being sent to a user wherein a user presses the button. This pressing of the button then provides the user with information as to the product which can then be reviewed by the user and information be sent with information regarding purchase information. The user then has to approve this purchase information. It is the approval of this purchase information that initiates the completion of the transaction. However, there is no transmission of information regarding the product in conjunction with the unique identification information that is associated with the user. Applicant believes that this is a deficiency with respect to *Baranowski*, in addition, the fact that there is no information input to the extraction device from the product. As such, Applicant believes that *Baranowski* does not anticipate or obviate the claims as presently presented and, therefore, respectfully requests withdrawal of the 35 U.S.C. § 103 rejection with respect to claims 1-22.

Applicant has now made an earnest attempt in order to place this case in condition for allowance. For the reasons stated above, Applicant respectfully requests full allowance of the claims as amended. Please charge any additional fees or deficiencies in fees or credit any overpayment to Deposit Account No. 20-0780/PHLY-25,357 of HOWISON & ARNOTT, L.L.P.

Respectfully submitted,  
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